

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM CURRY,
Plaintiff,
v.
SECRETARY OF PRISONS, *et al*
Defendants.

Case No. C07-5434RJB-KLS

**ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT
OF COUNSEL**

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court upon plaintiff's filing of a motion for appointment of counsel. (Dkt. #14). Plaintiff has been granted *in forma pauperis* status in this case. After reviewing plaintiff's motion and the balance of the record, the Court finds and ORDERS as follows:

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. While the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, it may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of plaintiff to articulate his claims *pro se* in light of the

1 complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

2 In his motion, plaintiff's states that he is an indigent, incarcerated *pro se* party without any legal
3 training, which affects his ability to investigate the law and the facts of this case and his ability to present
4 his claims, given the merits and legal complexity thereof. That fact that plaintiff is incarcerated, indigent
5 and proceeding in this matter *pro se*, however, makes his situation hardly distinguishable from that of
6 many similarly situated plaintiffs, and thus in itself does not constitute an exceptional circumstance. In
7 addition, it does not appear that the legal issues involved here are necessarily complex, nor has plaintiff
8 shown a likelihood of success on the merits. Indeed, a report and recommendation being issued on the
9 same date herewith, recommends dismissal of plaintiff's amended complaint.

10 Accordingly, plaintiff's motion for appointment of counsel (Dkt. #14) hereby is DENIED.

11 The clerk is directed to send a copy of this Order to plaintiff.

12 DATED this 27th day of February, 2008.



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15 Karen L. Strombom
16 United States Magistrate Judge
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